

STATE OF WISCONSIN

Senate Journal

Ninety-First Regular Session

10:00 A.M.

Tuesday, February 8, 1994

The Senate met.

The Senate was called to order by Brian D. Rude, President of the Senate.

The roll was called and the following Senators answered to their names:

Senators Adelman, Andrea, Breske, Buettner, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, George, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Risser, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 33.

Absent — None.

Absent with leave — None.

The Senate stood for a moment of silent meditation.

The Senate remained standing and Senator Schultz led the Senate in the pledge of allegiance to the flag of the United States of America.

INTRODUCTION OF BILLS

Read first time and referred:

**Senate Bill 706**

An act to direct expenditure of \$24,795.42 from the general fund for payment of a claim against the state made by Mary Johnson.

By Senator Leean; cosponsored by Representative Linton, by request of Claims Board.

To joint committee on Finance.

**Senate Bill 707**

Relating to granting visitation rights to grandparents under certain circumstances.

By Senators Rosenzweig, Andrea, Huelsman, Breske, Cowles and Weeden; cosponsored by Representatives Krug, Johnsrud, Holperin, Duff, Robson, Ladwig, Hasenohrl, Silbaugh; Gronemus, Seratti, Ryba, Musser, Boyle, Lehman, Zukowski, Lazich and Vander Loop.

To committee on Judiciary and Insurance.

**Senate Bill 708**

Relating to certification by electors who render assistance in voting at polling places.

By Senators Breske, Buettner, Burke, Darling, Lasee and Moore; cosponsored by Representatives Baldwin, Ryba, Boyle, Ziegelbauer, Grobschmidt, Dobyns, Ladwig, Freese, Lorge, Goetsch, Grothman and Stower.

To committee on State Government Operations and Corrections.

**Senate Bill 709**

Relating to the liability of a parent for acts committed by a juvenile.

By Senators Potter, Huelsman, Rosenzweig, Breske, Weeden and Buettner; cosponsored by Representatives Ziegelbauer, Plache, Jensen, Grobschmidt, Ladwig, Boyle, Seratti, Plombon, Lehman, Stower, Musser, Baldus, Otte, Huber, Brandemuehl, Roberts, Ainsworth, Baumgart, Dobyns, Springer, Goetsch, Silbaugh, Harsdorf, Hasenohrl, Albers and Porter.

To committee on Judiciary and Insurance.

**Senate Bill 710**

Relating to the term of school administrator contracts.

By Senators Darling, Andrea, Schultz, Zien and Drzewiecki; cosponsored by Representatives Hanson, Lehman, Baldus, Goetsch, Harsdorf, Zukowski, Kaufert, Huber, Albers, Grothman, Owens and Vergeront, by request of Brown Deer School Administrators.

To committee on Education.

**Senate Bill 711**

Relating to a state minimum wage, overtime pay for executive, administrative and professional employes, granting rule-making authority and providing a penalty.

By Senators Chvala, Andrea, Decker, Moen, Moore, Burke, Risser, Jauch, Plewa and Wineke; cosponsored by Representatives Coggs, Baldwin, Roberts, L. Young, Bock, Carpenter, Riley, Morris-Tatum, R. Young, Boyle, Black, Notestein, Plache, Robson, Bell, Krug, Stower, Springer and Potter.

To committee on Human Resources, Labor, Tourism, Veterans and Military Affairs.

**Senate Bill 712**

Relating to leaves of absence for certain state employes to participate in providing certain disaster relief services.

By Senators Clausing, Potter and Jauch; cosponsored by Representatives Schneider, Walker, Seratti, Carpenter, Bock, Baldwin, Springer, Stower, Holperin, Musser, Plombon, Turner and Duff.

To committee on State Government Operations and Corrections.

**Senate Bill 714**

Relating to establishing a local government records program, creating a fee for the filing of birth and death certificates and marriage documents and making an appropriation.

By Senators Buettner, Huelsman, Zien, Clausing, Rosenzweig and Rude; cosponsored by Representatives Swoboda, Baldwin, Lehman and Stower.

To committee on Financial Institutions and Cultural Affairs.

### COMMITTEE REPORTS

The committee on Transportation, Agriculture, Local and Rural Affairs reports and recommends:

#### Senate Bill 713

Relating to appraisal of and payment for animals that are destroyed because of infectious diseases and granting rule-making authority.

By request of Department of Agriculture, Trade and Consumer Protection.

##### Introduction:

Ayes, 5 — Senators Lasee, Drzewiecki, Zien, Andrea and Clausing;

Noes, 0 — None.

Read first time and referred to committee on Transportation, Agriculture, Local and Rural Affairs.

The committee on State Government Operations and Corrections reports and recommends:

#### Senate Joint Resolution 10

Relating to the vote on certain tax increase laws (first consideration).

##### Adoption:

Ayes, 3 — Senators Drzewiecki, Lasee and Schultz;

Noes, 1 — Senator Moen.

#### Senate Bill 130

Relating to service by a former governor or member of the legislature as a lobbyist.

##### Introduction and adoption of Senate amendment 1:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

##### Passage as amended:

Ayes, 3 — Senators Drzewiecki, Lasee and Schultz;

Noes, 1 — Senator Moen.

#### Senate Bill 378

Relating to discontinuing the penalty for late filing of sales tax and use tax returns if the late filing is caused by the death of the person required to file.

##### Passage:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

#### Senate Bill 610

Relating to the unit of government to which payments of property taxes on improvements on leased land that are assessed as personal property are paid.

##### Passage:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

#### Assembly Bill 133

Relating to the conversion of lands that are entered on the tax roll as forest croplands to lands that are entered on the tax roll as managed forest lands.

##### Concurrence:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

#### Assembly Bill 145

Relating to authorization for candidates to substitute nicknames for legal names or initials on election ballots.

##### Concurrence:

Ayes, 3 — Senators Drzewiecki, Lasee and Schultz;

Noes, 1 — Senator Moen.

#### Assembly Bill 248

Relating to the procedure for nomination of candidates.

##### Introduction and adoption of Senate amendment 1:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

##### Concurrence as amended:

Ayes, 4 — Senators Drzewiecki, Lasee, Schultz and Moen;

Noes, 0 — None.

Gary Drzewiecki

Chair

The committee on Education reports and recommends:

MELLOWES, LINDA, of Milwaukee, as a member of the Board of Trustees of the Medical College of Wisconsin, to serve for the term ending May 1, 1997.

##### Confirmation:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

#### Senate Bill 458

Relating to school board policies on pupil fees.

##### Introduction and adoption of Senate amendment 1:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter, and Clausing;

Noes, 0 — None.

##### Passage as amended:

Ayes, 5 — Senators Lorman, Darling, Helbach, Potter and Clausing;

Noes, 2 — Senators Huelsman and Petak.

#### Senate Bill 510

Relating to changing the name of the vocational, technical and adult education system to the technical college system.

##### Passage:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

**Senate Bill 528**

Relating to civil immunity for persons who donate commercial equipment or technology to high schools or institutions of higher education.

Adoption of Senate amendment 1:

Ayes, 7 — Senators Lorman, Darling, Helbach, Potter, Clausing, Huelsman and Potter;

Noes, 0 — None.

Passage as amended:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

**Senate Bill 542**

Relating to requiring a background investigation for issuance or renewal of a license or permit by the state superintendent of public instruction and making appropriations.

Introduction and adoption of Senate amendment 1:

Ayes, 7 — Senators Lorman, Darling, Helbach, Potter, Clausing, Huelsman and Potter;

Noes, 0 — None.

Introduction and adoption of Senate amendment 2:

Ayes, 7 — Senators Lorman, Darling, Helbach, Potter, Clausing, Huelsman and Potter;

Noes, 0 — None.

Introduction and adoption of Senate amendment 3:

Ayes, 7 — Senators Lorman, Darling, Helbach, Potter, Clausing, Huelsman and Potter;

Noes, 0 — None.

Passage as amended:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

**Senate Bill 637**

Relating to limitation of income from multiple positions with state agencies and certain authorities, granting rule-making authority and providing an exemption from emergency rule procedures.

Passage:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

**Senate Bill 642**

Relating to awarding grants to school districts for school safety measures, granting rule-making authority and making an appropriation.

Introduction and adoption of Senate amendment 1:

Ayes, 7 — Senators Lorman, Darling, Helbach, Potter, Clausing, Huelsman and Potter;

Noes, 0 — None.

Passage as amended:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

**Assembly Bill 21**

Relating to eligibility for academic excellence higher education scholarships.

Adoption of Senate amendment 1:

Ayes, 5 — Senators Petak, Darling, Helbach, Potter and Clausing;

Noes, 2 — Senators Lorman and Huelsman.

Introduction and adoption of Senate amendment 2:

Ayes, 7 — Senators Lorman, Huelsman, Petak, Darling, Helbach, Potter and Clausing;

Noes, 0 — None.

Concurrence as amended:

Ayes, 5 — Senators Petak, Darling, Helbach, Potter and Clausing;

Noes, 2 — Senators Lorman and Huelsman.

Barbara Lorman

Chair

The joint committee on Finance reports and recommends:

**Senate Bill 445**

An act relating to increasing the number of authorized positions for the educational communications board and making an appropriation.

Introduction and adoption of Senate amendment 1:

Ayes, 14 — Senators Leean, Weeden, Farrow, Schultz, Cowles, Panzer, George and Chvala; Representatives Linton, Holperin, Hubler, Krug, Huber and Foti;

Noes, 0 — None.

Passage as amended:

Ayes, 14 — Senators Leean, Weeden, Farrow, Schultz, Cowles, Panzer, George and Chvala; Representatives Linton, Holperin, Hubler, Krug, Huber and Foti;

Noes, 0 — None.

**Senate Bill 470**

Relating to grants for animal waste management facilities or systems, water pollution from agricultural nonpoint sources and making appropriations.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 14 — Senators Leean, Weeden, Farrow, Schultz, Cowles, Panzer, George and Chvala; Linton, Holperin, Hubler, Krug, Huber and Foti;

Noes, 0 — None.

Passage as amended:

Ayes, 14 — Senators Leean, Weeden, Farrow, Schultz, Cowles, Panzer, George and Chvala; and Representatives Linton, Holperin, Hubler, Krug, Huber and Foti;

Noes, 0 — None.

Joseph Leean

Co-chair

Barbara J. Linton

Co-chair

The committee on Judiciary and Insurance reports and recommends:

**Senate Bill 297**

Relating to reimbursement to private local attorneys for time spent in travel for cases assigned to them by the state public defender.

Passage:

Ayes, 7 — Senators Huelsman, Petak, Darling, Drzewiecki, Risser, Adelman and Chvala;

Noes, 0 — None.

**Senate Bill 617**

Relating to restitution by a child for actual damage resulting from the child's act.

Passage:

Ayes, 6 — Senators Huelsman, Petak, Darling, Drzewiecki, Risser and Chvala;

Noes, 1 — Senator Adelman.

**Assembly Bill 544**

Relating to information provided to an individual at the time when a request is made for a chemical test to determine the presence of alcohol, controlled substances or other drugs.

Concurrence:

Ayes, 7 — Senators Huelsman, Petak, Darling, Drzewiecki, Risser, Adelman and Chvala;

Noes, 0 — None.

**Assembly Joint Resolution 3**

Relating to eligibility to office of a person convicted of a misdemeanor involving a violation of public trust or of a felony (first consideration).

Concurrence:

Ayes, 5 — Senators Huelsman, Petak, Darling, Drzewiecki and Chvala;

Noes, 2 — Senators Risser and Adelman.

Joanne B. Huelsman

Chair

The committee on Environment and Energy reports and recommends:

**Assembly Bill 236**

Relating to the placement of structures for dry fire hydrants on the beds of navigable waters.

Concurrence:

Ayes, 3 — Senators Cowles, Farrow and Clausing;

Noes, 0 — None.

**Senate Bill 419**

Relating to abating nuisances caused by waste tires.

Introduction and adoption of Senate substitute amendment 1:

Ayes, 4 — Senators Cowles, Panzer, Burke and Clausing;

Noes, 1 — Senator Farrow.

Passage as amended:

Ayes, 4 — Senators Cowles, Panzer, Burke and Clausing;

Noes, 1 — Senator Farrow.

**Senate Bill 499**

Relating to state energy policy, energy use by state and local governmental facilities, regulation of energy consuming products, governor's energy awards, local land use restrictions regarding wind and solar energy systems, granting rule-making authority and providing a penalty.

Passage:

Ayes, 5 — Senators Cowles, Farrow, Panzer, Burke and Clausing;

Noes, 0 — None.

**Senate Bill 651**

Relating to grants for property development in state parks and state forests.

Passage:

Ayes, 5 — Senators Cowles, Farrow, Panzer, Burke and Clausing;

Noes, 0 — None.

**Assembly Bill 428**

Relating to operation of and proof of financial responsibility for solid and hazardous waste facilities.

Concurrence:

Ayes, 5 — Senators Cowles, Farrow, Panzer, Burke and Clausing;

Noes, 0 — None.

Robert Cowles

Chair

PETITIONS AND COMMUNICATIONS

STATEMENT OF POSITION

Pursuant to Senate Rule 74, I wish to have the journal show that had I been present on February 1, 1994, I would have voted as follows:

Aye on the confirmation of the appointments, the adoption of **Senate Joint Resolution 19**, the motion to indefinitely postpone **Senate Bill 550**, rejection of Senate amendment 1 to **Senate Bill 550**, rejection of Senate amendment 2 to **Senate Bill 550**, passage of **Senate Bill 550** and concurrence in **Assembly Bill 776**.

Sincerely,

Mary Panzer

Senator, 20th District

State of Wisconsin Claims Board

February 2, 1994

To the Honorable the Senate

Enclosed is the report of the State Claims Board covering claims heard on January 13, 1994.

The amounts recommended for payment under \$2000 on claims included in this report have, under the provisions of s. 16.007, Wisconsin Statutes, been paid directly by the Board.

The Board is preparing the bill(s) on the recommended award(s) over \$2,000, if any, and will submit such to the Joint Finance Committee for legislative introduction.

This report is for the information of the Legislature. The Board would appreciate your acceptance and spreading of it upon the Journal to inform the members of the Legislature.

Sincerely,  
- Edward D. Main  
Secretary

STATE OF WISCONSIN  
CLAIMS BOARD

The State Claims Board conducted hearings at the State Capitol Building, Madison, Wisconsin on January 13, 1994, upon the following claims:

Claimant	Amount
Guiffre Organization, Ltd.	88,575.21
Annie Daniel	5,000.00
John Pflaum	60,000.00
Barbara Colson	13,120.00
United States Fire Protection	108,119.16
Soo Hyung Lee	4,400.00
P.V.N. Acharya	678,145.43

In addition, the following claims were considered and decided without hearings:

Chaun Boulden	90,000.00
Mark Endries	435.19
Lawrence W. Hutchinson	232.75
John C. Magers	18,336.16
Carlton Pugh	7,463.95
Carlton Pugh	7,500.00
Luella Reuter	279.58
Joe Theisen	3,634.99
Austin Williams	10,000.00
Economy Fire & Casualty Co.	886.45
James La Rose	873.74

THE BOARD FINDS:

1. Guiffre Organization, Ltd., of Milwaukee, Wisconsin claims \$88,575.21 for compensation pursuant to contracts entered into with Wisconsin State Fair Park (SFP) in 1983. Pursuant to the contract, claimant constructed an infield concession stand and was entitled to receive over a the period of 10 years, equal yearly payments of \$14,432.07 from SFP. Claimant alleges SFP has failed to make the payments due. In addition, claimant and SFP entered into a contract on April 9, 1990, by which SFP agreed to lease bleacher seats from claimant at the rate of \$7.05 per seat from June 1, 1990, through May 31, 1994. Claimant alleges SFP has failed to make the payments due. Located on SFP grounds, an underground fuel tank, owned by claimant was producing contamination, requiring its removal and cleanup. Claimant contracted with AA Tank Removal to perform the necessary work but then refused to pay AA Tank Removal. The SFP subsequently arranged to have AA Tank Removal complete the work and advised claimant it would reduce its bleacher seat concession payments by the amount it paid to AA Tank Removal, \$44,523.62. The Board concludes there has been an

insufficient showing of negligence on the part of the state its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

2. Annie Daniel of Racine, Wisconsin, claims \$5,000.00 pursuant to s. 775.11 Wis. Stats., for reimbursement of attorney fees allegedly incurred when claimant was charged with abuse of a resident by the Racine County District Attorney. Claimant is employed at Southern Wisconsin Center and was accused of striking a resident while on duty on October 9, 1992. Claimant contracted with legal counsel for a flat fee of \$5,000.00 to defend her against the charge. The case was dismissed after a preliminary hearing when Racine County Circuit Court Judge Stephen Simanek ruled that there was no probable cause to believe claimant had committed a felony. The Board recommends that the claim be paid in the reduced amount of \$3,500.00, based on equitable principles. The Board further recommends, under authority of s. 16.007(6m), Stats., payment should be made from the Claims Board appropriation s. 20.505(4)(d), Stats. (Member Burczyk not participating).

3. Dr. John Pflaum of Milwaukee, Wisconsin, claims \$60,000.00 for loss of income, damage to his reputation and other damages allegedly resulting from loss of medical testing referrals from the Department of Health & Social Services, Bureau of Social Security Disability (Bureau). The Bureau obtains medical information regarding disability benefit applicants by referring the applicant to a licensed medical practitioner for a consultative examination. The licensed medical practitioners to whom applicants are referred are known as vendors. Vendors do not have written contracts to provide medical consultative services, but provide such services on a referral by referral basis. Claimant received such referrals for approximately 5 years. In November, 1986, all referrals to claimant were discontinued. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

4. Barbara Colson of Winneconne, Wisconsin, claims \$13,120.00 for 41 weeks of lost wages allegedly caused by mistakes made by the Department of Regulation & Licensing while processing her Certified Occupational Therapy Assistant application, as well as flaws in the oral examination and appeal process. Claimant alleges the Department of Regulation & Licensing lost the photograph attached to her first application, which she submitted in July, 1991, but did not inform her of the missing photo until October 1992. On December 9, 1992, the Department of Regulation & Licensing informed claimant that she was required to take an oral examination for certification. Claimant was subsequently notified that had failed the oral examination by 2 points and she requested review of her examination. On February 26, 1993 the Occupational Therapy Examination Council reviewed her examination

and concluded one of her answers was correct. Claimant then filed a request for hearing. On June 9, 1993, the Department of Regulation & Licensing stipulated that claimant had received a passing score on her oral examination. The Board granted a certificate to claimant on June 23, 1993. The Board finds there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

5. United States Fire Protection Wisconsin, Inc. (USFP) of New Berlin, Wisconsin, claims \$108,119.16 for damages allegedly resulting from construction delays of the Lapham Hall Science Center Addition at the University of Wisconsin, Milwaukee in 1991 & 1992. USFP contracted with the Department of Administration to install fire protection systems for the Lapham Hall project. USFP alleges that because of delays not the responsibility of USFP, it was required to perform its work in a compressed manner, with unreasonable performance times allowed and was forced to perform much of its work out of sequence, thus increasing the difficulty of installing the system and causing crowded conditions with other contractors. USFP was one of eight other prime contractors on this project. The Department of Administration contends the owner did not cause the delays and that the general contractor has the primary scheduling responsibility. The Board finds there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles. (Member Main not participating).

6. Soo Hyung Lee of Franklin Lakes, New Jersey, claims \$4,400.00 for money stolen while she was a guest at the Union South Hotel on April 4, 1993. Claimant left \$6,100.00 in her room in a computer case when she went out twice that evening from approximately 4:00 P.M. to 10:30 P.M.. Claimant discovered the money was missing at 7:00 A.M. Sunday. Leon Taylor, an employee of the hotel was subsequently arrested and convicted of the theft. Mr. Taylor was hired by the University to do general custodial work. He did not commit the burglary of claimant's room while at work, however. Cash in the amount of \$1,700.00 was recovered from Mr. Taylor at the time of his arrest. The Court has determined that Mr. Taylor must make restitution to the claimant of the \$1,700.00. The Board finds there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

7. Prema Acharya of Minneapolis, Minnesota, claims \$678,145.43 for loss of salary and fringe benefits allegedly related to the University of Wisconsin's (UW) rejection of P.V.N. Acharya's application for a tenured position with the UW Department of Pathology

(Department). Prema Acharya brings this claim before the board as the special administrator of the Estate of the claimant, P.V.N. Acharya. In 1974 claimant filed a discrimination suit against the Department, where he was employed. The UW and the claimant reached a settlement in February, 1975. In 1978, claimant applied for a tenured position with the Department. At a May 2, 1978 meeting, the tenure committee of the Department voted not to consider claimant's application. The claimant alleges that this meeting was improperly conducted because the professors did not consider his full curriculum vitae, did not adequately examine his papers and manuscripts, and discussed his previous discrimination suit prior to the meeting. Claimant further alleges that one of the professors voting against him was not a member of the Department and should not have attended the meeting. Claimant alleges he was denied the position in retaliation for the discrimination suit he had filed in 1974 and that the candidate hired for the position was substantially less qualified than the claimant. In 1978 claimant filed a civil rights action against the Department and the UW for employment discrimination. Claimant was unsuccessful in that action against the Department. Claimant then sued the attorney who represented him in the civil rights action, for malpractice. The Dane County Circuit Court upheld the jury's findings and dismissed claimant's complaint against his former attorney. Claimant appealed that decision to the Court of Appeals which affirmed the judgment of the Circuit court. Claimant sought review by the Wisconsin Supreme Court but his petition was denied on July 14, 1992. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

8. Chaun Boulden of Fox Lake, Wisconsin, claims \$90,000.00 for pain, suffering and mental anguish allegedly caused by an incident that occurred while he was incarcerated at Racine Correctional Institution in August, 1992. Claimant alleges he was physically assaulted by another inmate causing injury to his back. Claimant further alleges that the staff neither properly investigated the incident, nor properly punished the other inmate. Claimant also alleges he was unfairly punished, by being placed in Temporary Lockup because he is homosexual. The Board finds there has been insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

9. Mark Endries of Cleveland, Wisconsin, claims \$435.19 for loss of wages allegedly caused by an incorrect restriction placed on his Commercial Driver's License. Claimant alleges he correctly completed the license application, however on June 9, 1993, during an inspection at Kenosha scale #21, he discovered that there

was a restriction on his license, not allowing him to operate out of state. Claimant was told by the inspector that he should not operate out of state until the restriction was removed. Because of the incorrect restriction, claimant was not able to make a scheduled trip to Chicago, thus losing income. The Board concludes the claim should be paid in the reduced amount of \$335.19 based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395(5)(cq), Stats.

10. Lawrence Hutchinson of Strafford, Wisconsin claims \$232.75 for damages to his car allegedly caused by a rock which was thrown by a lawnmower operated by a state employe at the Wisconsin Army National Guard Camp Williams Training Site on October 15, 1992. The Board concludes the claim should be paid in the amount of \$232.75 based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Military Affairs appropriation s. 20.465(1)(a), Stats.

11. John C. Magers of Shelby, Ohio, claims \$18,336.16 for medical bills allegedly relating to an accident with a deer which occurred while he was traveling in Wisconsin. Claimant was traveling on I-59 on his motorcycle when a deer ran out into the road and hit the front end of his motorcycle, causing damage to the motorcycle and injuries to claimant's leg. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

12. Carlton Pugh of Milwaukee, Wisconsin, claims \$7,500.00 for compensation for wrongful imprisonment pursuant to s. 775.05, Wis. Stats. Claimant was arrested for robbery on October 31, 1991 and convicted of that crime in 1992. Claimant alleges he was innocent of the crime and that his civil rights were violated because the jury which convicted him was composed of all white jurors. Claimant also alleges the state violated his rights by knowingly using perjured testimony at the trial. A retrial was granted and the state moved to dismiss the charges based upon the fact that the victim, Gary Wilder, could not be found and it would be unfair to the claimant to proceed to trial. The case was dismissed without prejudice. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

13. Carlton Pugh of Milwaukee, Wisconsin, claims \$7,463.95 for loss of wages and unemployment benefits resulting from his allegedly wrongful termination of employment by the Department of Natural Resources (DNR) in March, 1986. Claimant was hired as a limited

term employe to perform records management duties in the DNR Bureau of Program Services. On March 17, 1986, claimant was terminated from his position for allegedly falsifying his time reports. Claimant filed a complaint with the Personnel Commission alleging discrimination on the basis of race and arrest conviction record. The Personnel Commission found in favor of the DNR and dismissed the complaint. Claimant then filed a complaint in Federal District Court alleging discrimination regarding his discharge on the basis of race in violation of federal law. The court's decision stated that "although this court finds that DNR's discharge of Pugh may have been based on incorrect beliefs, it finds Pugh's race was not a factor in his discharge". The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

14. Luella Reuter of Madison, Wisconsin, claims \$279.58 for automobile damages allegedly incurred on June 7, 1993, when her vehicle was parked in University of Wisconsin Madison Lot #16. On June 7, 1993, there was heavy rainfall in Madison which caused flooding in Lot #16. Claimant's car was flooded by over a foot of water causing water damage. Claimant alleges the flooding of Lot #16 has been an ongoing problem and has been reported to the University several times, but the University has not taken steps to correct the problem. The University did request an engineer to inspect the parking lot. The engineer reported that the drainage inlets and storm sewers in the area appear to be adequate for normal rainfall. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employes and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

15. Joe Thiesen of St. Cloud, Wisconsin, claims \$3,634.99 for damages allegedly caused by wooden stakes and wire fencing left in his field by Department of Transportation personnel. The wooden stakes allegedly damaged claimant's hay binder in July, 1992. Claimant found bits of wire and wood in his hay, resulting in the hay not being suitable to use or sell. Claimant requests \$429.99 for repair of his haybine and rental of a new machine, \$850.00 for loss of the hay, \$390.00 for the cost of bailing hay, \$180.00 for the cost of destroying hay and \$1,785 for loss of the use of the field for the next 6 years. The Board concludes the claim should be paid in the reduced amount of \$1,849.99, for the cost of repair and rental of the hay binder, the loss of the hay and the cost bailing and destroying the hay, based on equitable principles. The Board further concludes, under authority of s. 16.007(6m), Stats., payment should be made from the Department of Transportation appropriation s. 20.395(3)(cq), Stats.

16. Austin Williams of Waupun, Wisconsin, claims \$10,200.00 for compensation for wrongful imprisonment pursuant to s. 775.05, Wis. Stats. Claimant was arrested and convicted of second degree reckless injury in 1990. The conviction was subsequently reversed due to insufficient evidence. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officer, agents or employees and the claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

17. Economy Fire & Casualty Co., of Portage, Wisconsin, claims \$886.45 subrogation damages. Claimant's insureds, Gary & Julie Smith, filed a claim with the insurance company for damages incurred to their vehicle on June 28, 1993, while parked at Northern Wisconsin Center. A resident of the Center left the building unsupervised and threw rocks at the insured's car. The insurance company reimbursed the insureds \$886.45 for the damages. Consistent with the longstanding policy of this Board concerning subrogation claims, the Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

18. James La Rose of Fox Point, Wisconsin, claims \$873.74 for damages to his automobile door and fender allegedly incurred while pulling out of a parking space in a University of Wisconsin-Milwaukee parking garage on December 14, 1992. Claimant alleges that lane markers placed in front of the parking space in which his van was parked restricted his turning radius. In attempting to avoid the markers, claimant hit a concrete pillar on the other side of the van. The Board concludes there has been an insufficient showing of negligence on the part of the state, its officers, agents or employees and this claim is not one for which the state is legally liable nor one which the state should assume and pay based on equitable principles.

**THE BOARD CONCLUDES:**

1. The claims of the following claimants should be denied:

Guiffre Organization, Ltd.  
 Dr. John Pflaum  
 Barbara Ann Colson  
 United States Fire Protection  
 Soo Hyung Lee  
 P.V.N. Acharya  
 Chaun Boulden  
 John C. Magers  
 Carlton Pugh  
 Carlton Pugh  
 Luella Reuter  
 Austin Williams  
 Economy Fire & Casualty Co.  
 James La Rose

2. Payment of the following amounts to the following claimants is justified under s. 16.007, Stats.

Mark Endries	\$435.19
Lawrence Hutchinson	\$232.75
Joe Theisen	\$1,849.99

**THE BOARD RECOMMENDS:**

1. Payment of \$3,500.00 to Annie Daniel for attorney fees.

Dated at Madison, Wisconsin this 31st day of January, 1994.

Joseph Leean  
 Senate Finance Committee

James Holperin  
 Assembly Finance Committee

John Burczyk  
 Representative of Governor

Edward D. Main  
 Representative of Secretary of Administration

William H. Wilker  
 Representative of Attorney General

State of Wisconsin  
 Department of Corrections

January 28, 1994

To the Honorable the Legislature:

As required under Section 301.03(6r) of the Wisconsin Statutes, I am submitting information relative to the number of prisoners the Department of Corrections considers violent and the total number of prisoners.

On December 31, 1993, the Department had 9,062 adult inmates under institution supervision. Out of the 9,062 inmates, 6,166 (68%) had assaultive offenses.

Sincerely,  
 Michael J. Sullivan  
 Secretary

State of Wisconsin  
 Wisconsin Employment Relations Commission  
 February 4, 1994

To the Honorable the Legislature:

Sec. 111.71(3)(d) provides as follows:

The Council on Municipal Collective Bargaining shall review each pending legislative proposal relating to modification of the dispute settlement procedures under s. 111.70(4)(cm) or (7m) and shall report its findings and recommendations relating to the proposal to the chief clerk of each house of the legislature for referral to the appropriate standing committees under s. 13.172(3).

As non-voting chairperson of said Council, I am pleased to advise you that at its regular meeting on January 27, 1994, the Council endorsed **1993 Assembly**

**Bill 929** and requested immediate legislative consideration and passage.

The motion was made by Council member Kenneth Cole and seconded by Council member Robert Lyons. Nine of the ten Council members voted for the aforesaid endorsement. One member abstained from voting because of his belief that he had a possible conflict of interest.

Sincerely,  
A. Henry Hempe, Chairperson  
Wisconsin Council on Municipal  
Collective Bargaining

Read and referred to the committee on Education.

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#### EXECUTIVE COMMUNICATIONS

Senator Ellis, with unanimous consent, asked that all the appointments under the sixth order of business be placed at the foot of the days calendar.

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#### SENATE CLEARINGHOUSE ORDERS

##### **Senate Clearinghouse Rule 93-179**

Relating to administration of outdoor recreation program grants and state aid for shooting range development.

Submitted by Department of Natural Resources.

Report received from agency, February 2, 1994.

Referred to committee on Environment and Energy, February 8, 1994.

##### **Senate Clearinghouse Rule 93-183**

Relating to the tagging of sturgeon caught by hook and line.

Submitted by Department of Natural Resources.

Report received from agency, February 2, 1994.

Referred to committee on Environment and Energy, February 8, 1994.

##### **Senate Clearinghouse Rule 93-231**

Relating to a surcharge for failure to pay a fee.

Submitted by State Emergency Response Board.

Report received from agency, February 1, 1994.

Referred to committee on Environment and Energy, February 8, 1994.

##### **Senate Clearinghouse Rule 93-240**

Relating to the main street program.

Submitted by Department of Development.

Report received from agency, February 1, 1994.

Referred to committee on Business, Economic Development and Urban Affairs, February 8, 1994.

The committee on Health, Human Services and Aging reports and recommends:

##### **Senate Clearinghouse Rule 93-181**

Relating to continuing education.

No action taken.

##### **Senate Clearinghouse Rule 93-182**

Relating to the use of therapeutic pharmaceutical agents and diagnostic pharmaceutical agents by licensed optometrists.

No action taken.

Carol A. Buettner  
Chair

The committee on Transportation, Agriculture, Local and Rural Affairs reports and recommends:

##### **Senate Clearinghouse Rule 93-83**

Relating to financial standards and security requirements for fruit and vegetable contractors.

No action taken.

##### **Senate Clearinghouse Rule 93-209**

Relating to motorcycle instruction courses and motorcycle instruction permits.

No action taken.

Alan J. Lasee  
Chair

The committee on Environment and Energy reports and recommends:

##### **Senate Clearinghouse Rule 93-198**

Relating to the hazardous pollution prevention audit grant program.

No action taken.

Robert Cowles  
Chair

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#### MESSAGE FROM THE ASSEMBLY

By Thomas T. Melvin, chief clerk.

Mr. President:

I am directed to inform you that the Assembly has passed and asks concurrence in:

**Assembly Bill 107**

**Assembly Bill 280**

**Assembly Bill 471**

**Assembly Bill 586**

**Assembly Bill 649**

**Assembly Bill 783**

**Assembly Bill 824**

**Assembly Bill 883**

**Assembly Bill 918**

Amended and concurred in as amended:

**Senate Bill 106**, Assembly amendment 1

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#### MESSAGE FROM THE ASSEMBLY CONSIDERED

**Assembly Bill 107**

Relating to return of fingerprint and related records.

By Representatives Baldwin, Wood, Lorge, Baldus, Boyle, Bolle, Notestein, Hahn and Turner, cosponsored by Senators Risser, Schultz and Lorman.

Read first time and referred to committee on Judiciary and Insurance.

**Assembly Bill 280**

Relating to motor vehicle operating privileges of school dropouts and habitual truants.

By Representatives Krusick, Grobschmidt, Ainsworth, Boyle, Carpenter, Dobyms, Freese, Gard, Kaufert, Lorge, Musser, Ott, Roberts, Rosenzweig and Springer, cosponsored by Senators Buettner, Drzewiecki, Farrow and Lekan.

Read first time and referred to committee on Education.

**Assembly Bill 471**

Relating to mining for minerals on lands owned by the state and under the jurisdiction of the department of natural resources, sale of lands by the department of natural resources and providing a penalty.

By Representatives Black, Stower, Krug, Baumgart, Gruszynski, Bell, Notestein, Huber, Plache, Johnsrud, R. Young, Baldwin, Carpenter, Wirch, Robson, Bock, Freese, Riley, Boyle, Holperin, Coggs, Wilder and Potter, cosponsored by Senators Clausing, Chvala, Potter, Weeden, Jauch, Burke and Risser.

Read first time and referred to committee on Environment and Energy.

**Assembly Bill 586**

Relating to use of synthetic bovine growth hormone for the production of milk, labeling of dairy products, sale and distribution of synthetic bovine growth hormone, sale of dairy cows that have been administered synthetic bovine growth hormone, promotion of dairy products that are not produced from herds being administered synthetic bovine growth hormone and granting rule-making authority.

By Representatives Baldus, Gronemus, Gruszynski, Roberts, Grobschmidt, Robson, Hasenohrl and Stower, cosponsored by Senators Decker, Moen and Wineke.

Read first time and referred to committee on Transportation, Agriculture, Local and Rural Affairs.

**Assembly Bill 649**

Relating to expanding the premises where certain offenses related to reckless driving, driving while under the influence of an intoxicant or controlled substance and the duties of a person involved in an accident apply.

By Representatives Brandemuehl, Bock, Otte, Grobschmidt, Ladwig, Ott, Roberts, Silbaugh, Ryba, La Fave, Duff, Urban and Hinkfuss, cosponsored by Senators Huelsman, Petak, Rosenzweig and Darling.

Read first time and referred to committee on Judiciary and Insurance.

**Assembly Bill 783**

Relating to public defender representation of juveniles in juvenile court proceedings, granting rule-making authority and making appropriations.

By Representatives Beal, R. Young, Notestein, Deininger, Klusman, Jensen, Hanson, Morris-Tatum, Dobyms, Riley, Musser, Coggs, Porter, Owens, Otte, Walker, Ziegelbauer, Seratti, Silbaugh, Lorge, Ladwig, La Fave and Ward, cosponsored by Senators Darling, Rosenzweig, Moore, George and Panzer.

Read first time and referred to committee on Judiciary and Insurance.

**Assembly Bill 824**

Relating to medical assistance coverage of certain persons who are working and who are disabled.

By Representatives Baldwin, Porter, Holperin, L. Young, Plombon, Goetsch, Bell, Stower, Ladwig, Schneiders, Ziegelbauer, Lorge, Hanson, Musser, Duff, Bock, Kaufert, Black, Morris-Tatum, Boyle, Seratti and Springer, cosponsored by Senators Buettner, Panzer, Breske, Moore and Risser.

Read first time and referred to committee on Health, Human Services and Aging.

**Assembly Bill 883**

Relating to collateral repair expenses in consumer credit transactions, to licensed lenders and granting rule-making authority.

By Representatives Grobschmidt, Gruszynski, Foti, Hubler, Roberts and Dobyms, cosponsored by Senators Zien, Breske and Panzer.

Read first time and referred to committee on Financial Institutions and Cultural Affairs.

**Assembly Bill 918**

Relating to removal of certain references to lunatics in the statutes regarding bank trust powers (suggested as remedial legislation by the office of commissioner of banking).

By Law Revision Committee.

Read first time and referred to committee on Financial Institutions and Cultural Affairs.

CALENDAR OF TUESDAY, FEBRUARY 8, 1994

**Senate Bill 89**

Relating to assessment periods for certain pupils, high school graduation requirements, alternative education program teacher licensure, education for employment programs and granting rule-making authority.

Read.

The question was: Concurrence of Assembly amendment 1?

Concurred in.

**Senate Bill 186**

Relating to the filing and durability of the statutory form power of attorney.

Read.

The question was: Concurrence of Assembly amendment 1?

Concurred in.

**Senate Bill 212**

Relating to the authority of the division of equal rights in the department of industry, labor and human relations to dismiss complaints under the fair employment law, the authority of the division of equal rights in the department of industry, labor and human relations and of the personnel commission to resolve complaints involving public employe safety and health, discrimination in public accommodations and discrimination in employment, and the place for holding a hearing on a complaint charging discrimination in housing, public accommodations or employment.

Read.

The question was: Concurrence in Assembly amendment 1?

Senator Ellis, with unanimous consent, asked that **Senate Bill 212** be placed at the foot of the days calendar.

**Senate Bill 265**

Relating to motor vehicle dealer letters of credit.

Read.

The question was: Concurrence in Assembly amendment 1?

Concurred in.

The question was: Concurrence in Assembly amendment 2?

Concurred in.

**Senate Bill 316**

Relating to permissible charges in consumer credit transactions.

Read.

The question was: Concurrence of Assembly substitute amendment 3?

Senator Ellis, with unanimous consent, asked that **Senate Bill 316** be placed at the foot of the days calendar.

**Senate Bill 328**

Relating to violations of fish and game laws and providing penalties.

Read.

The question was: Concurrence of Assembly amendment 1?

Senator Ellis, with unanimous consent, asked that **Senate Bill 328** be placed at the foot of the days calendar.

**Senate Bill 374**

Relating to admission of certain individuals from hospitals to nursing homes or community-based residential facilities.

Read.

The question was: Concurrence of Assembly amendment 1?

Senator Ellis, with unanimous consent, asked that **Senate Bill 374** be placed at the foot of the days calendar.

CONSIDERATION OF MOTIONS AND RESOLUTIONS

**Senate Resolution 10**

Relating to recognizing the Wisconsin memorial at the Highground for World War II veterans on September 18, 1993 and urging the governor to designate September 18, 1993, as a day dedicated to the World War II veterans of Wisconsin.

Read.

Adopted.

SECOND READING AND AMENDMENTS OF SENATE JOINT RESOLUTIONS AND SENATE BILLS

**Senate Joint Resolution 9**

Relating to eligibility to office of a person convicted of a misdemeanor involving a violation of public trust or of a felony (first consideration).

Read a second time.

Senator Ellis, with unanimous consent, asked that **Senate Joint Resolution 9** be placed at the foot of the days calendar.

**Senate Bill 50**

Relating to impersonating a peace officer and providing penalties.

Read a second time.

Senator Ellis, with unanimous consent, asked that **Senate Bill 50** be placed at the foot of the days calendar.

**Senate Bill 390**

Relating to employment of minors 11 years of age or older in the sale of newspapers.

Read a second time.

Senator Ellis, with unanimous consent, asked that **Senate Bill 390** be placed at the foot of the days calendar.

**Senate Bill 396**

Relating to increasing the jurisdictional amount in small claims actions.

Read a second time.

Senator Ellis, with unanimous consent, asked that **Senate Bill 396** be placed at the foot of the days calendar.

**Senate Bill 397**

Relating to certification requirements for certain proposed economic activity in development zones.

Read a second time.

Senator Leean, with unanimous consent, asked that **Senate Bill 397** be referred to the joint committee on Finance.

Senator Leean, with unanimous consent, asked that **Senate Bill 397** be withdrawn from the joint committee on Finance and taken up.

Read a second time.

Ordered to a third reading.

Senator Ellis, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 397**

Read a third time and passed.

**Senate Bill 475**

Relating to requiring that agricultural land be valued for equalization purposes and assessed on the basis of its current use.

Read a second time.

The question was: Adoption of Senate amendment 1 to Senate substitute amendment 1?

Senator Leean, with unanimous consent, asked that **Senate Bill 475** be referred to the joint committee on Finance.

**Senate Bill 482**

Relating to payment to certain providers of obstetric and gynecological care under the medical assistance program.

Read a second time.

The question was: Adoption of Senate substitute amendment 1?

Senator Leean, with unanimous consent, asked that **Senate Bill 482** be referred to joint committee on Finance.

**Senate Bill 534**

Relating to the maximum price of a raffle ticket.

Read a second time.

Senator Ellis, with unanimous consent, asked that **Senate Bill 534** be placed at the foot of the days calendar.

SECOND READING AND AMENDMENTS  
OF ASSEMBLY JOINT RESOLUTIONS AND  
ASSEMBLY BILLS

**Assembly Bill 517**

Relating to the marking of unguarded ice holes.

Read a second time.

Ordered to a third reading.

Senator Ellis, with unanimous consent, asked that the bill be considered for final action at this time.

**Assembly Bill 517**

Read a third time and concurred in.

**Assembly Bill 558**

Relating to training for jail, secure detention and law enforcement officers and granting rule-making authority.

Read a second time.

Senator Leean, with unanimous consent, asked that **Assembly Bill 558** be referred to joint committee on Finance.

**Assembly Bill 608**

Relating to the duties of the state capitol and executive residence board, creating a state capitol restoration fund and making an appropriation.

Read a second time.

The question was: Adoption of Senate amendment 1?

Senator Leean, with unanimous consent, asked that **Assembly Bill 608** be referred to joint committee on Finance.

Senator Moen, with unanimous consent, asked that the Senate recess until 11:28 A.M..

10:31 A.M.

RECESS

11:28 A.M.

The Senate reconvened.

Senator Ellis, with unanimous consent, asked that all the appointments on the days calendar be taken up en masse except for the appointment of Michael J. Sullivan.

BEIL, MARTIN, of Mazomanie, as a member of the Deferred Compensation Board, to serve for the term ending July 1, 1997.

Read.

CARPENTER, MAYOR MARIGEN, of Neenah, as a member of the Land and Water Conservation Board, to serve for the interim term ending July 1, 1994, and for the full term ending July 1, 1998.

Read.

CHESBROUGH, MARILYNN, of Wautoma, as a member of the Judicial Commission, to serve for the term ending August 1, 1996.

Read.

GORMAN, JOSEPH, of Wauwatosa, as a member of the Board of Trustees of the Medical College of Wisconsin, to serve for the term ending May 1, 2000.

Read.

HASE, MEREDY, of Waukesha, as a member of the Hearing and Speech Examining Board, to serve for the term ending July 1, 1997.

Read.

HENKES, JONATHAN M., of Madison, as a member of the Prison Industries Board, to serve for the term ending May 1, 1996.

Read.

JOHNSON, DOROTHY, of Appleton, as a member of the Ethics Board, to serve for the interim term ending May 1, 1998.

Read.

LOUDEN, RICHARD K., of Sheboygan, as a member of the Hearing and Speech Examining Board, to serve for the term ending July 1, 1997.

Read.

METCALFE, V. THOMAS, of Monona, as a member of the Educational Communications Board, to serve for the term ending May 1, 1997.

Read.

SAUVEY, RAYMOND N., of Green Bay, as a member of the Educational Communications Board, to serve for the term ending May 1, 1997.

Read.

The question was: Confirmation?

The ayes and noes were required and the vote was: ayes, 33; noes, 0; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Breske, Buettner, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, George, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Risser, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 33.

Noes — None.

Absent or not voting — None.

Confirmed.

SULLIVAN, MICHAEL J., of Madison, as Secretary of the Department of Corrections, to serve for the term ending at the pleasure of the Governor.

Read.

The question was: Confirmation?

Senator Ellis, with unanimous consent, asked that the Senate stand informal for 3 minutes.

11:40 A.M.

11:43 A.M.

The Senate reconvened.

The question was: Confirmation of Michael J. Sullivan?

The ayes and noes were required and the vote was: ayes, 31; noes, 2; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Breske, Buettner, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Jauch, Lasee, Leean, Lorman, Moen, Panzer, Petak, Plewa, Potter, Risser, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 31.

Noes — Senators George and Moore — 2.

Absent or not voting — None.

Confirmed.

### Senate Bill 212

Relating to the authority of the division of equal rights in the department of industry, labor and human relations to dismiss complaints under the fair employment law, the authority of the division of equal rights in the department of industry, labor and human relations and of the personnel commission to resolve complaints involving public employe safety and health, discrimination in public accommodations and discrimination in employment, and the place for holding a hearing on a complaint charging discrimination in housing, public accommodations or employment.

Read.

The question was: Concurrence of Assembly amendment 1?

Senator George moved nonconcurrence in Assembly amendment 1.

The question was: Nonconcurrence in Assembly amendment 1?

The ayes and noes were demanded and the vote was: ayes, 30; noes, 2; absent or not voting, 1; as follows:

Ayes — Senators Andrea, Buettner, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, George, Helbach, Huelsman, Jauch, Leean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Risser, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 30.

Noes — Senators Adelman and Breske — 2.

Absent or not voting — Senator Lasee — 1.

Nonconcurrent in.

Senator Ellis, with unanimous consent, asked that if the Assembly fails to recede from their position on Assembly amendment 1 to **Senate Bill 212** that there be a committee on conference called and the Chair appoint members to that committee.

Senator Chvala, with unanimous consent, asked that he be withdrawn as a co-sponsor of **Assembly Bill 609**.

### Senate Bill 316

Relating to permissible charges in consumer credit transactions.

Read.

Senate amendments 1, 2 and 3 to Assembly substitute amendment 3 to **Senate Bill 316** offered by Senator Adelman.

The question was: Adoption of Senate amendment 1 to Assembly substitute amendment 3?

Senator Darling moved rejection of Senate amendment 1 to Assembly substitute amendment 3.

The question was: Rejection of Senate amendment 1 to Assembly substitute amendment 3?

The ayes and noes were demanded and the vote was: ayes, 25; noes, 8; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Chvala, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Lasee, Llean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Weeden and Zien — 25.

Noes — Senators Adelman, Burke, Clausing, Cowles, George, Jauch, Risser and Wineke — 8.

Absent or not voting — None.

Rejected.

The question was: Adoption of Senate amendment 2 to Assembly substitute amendment 3?

Senator Darling moved rejection of Senate amendment 2 to Assembly substitute amendment 3.

The question was: Rejection of Senate amendment 2 to Assembly substitute amendment 3?

The ayes and noes were demanded and the vote was: ayes, 28; noes, 5; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Chvala, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Jauch, Lasee, Llean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 28.

Noes — Senators Adelman, Burke, Clausing, George and Risser — 5.

Absent or not voting — None.

Rejected.

The question was: Adoption of Senate amendment 3 to Assembly substitute amendment 3?

Senator Darling moved rejection of Senate amendment 3 to Assembly substitute amendment 3.

The question was: Rejection of Senate amendment 3 to Assembly substitute amendment 3?

Rejected.

The question was: Concurrence of Assembly substitute amendment 3?

The ayes and noes were demanded and the vote was: ayes, 28; noes, 5; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Chvala, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Jauch, Lasee, Llean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 28.

Noes — Senators Adelman, Burke, Clausing, George and Risser — 5.

Absent or not voting — None.

Concurred in.

#### **Senate Bill 328**

Relating to violations of fish and game laws and providing penalties.

Read.

The question was: Concurrence of Assembly amendment 1?

Concurred in.

#### **Senate Bill 374**

Relating to admission of certain individuals from hospitals to nursing homes or community-based residential facilities.

Read.

Senate amendment 1 to Assembly amendment 1 to **Senate Bill 374** offered by Senator Adelman.

The question was: Adoption of Senate amendment 1 to Assembly amendment 1?

Senator Adelman, with unanimous consent, asked that Senate amendment 1 to Assembly amendment 1 be laid on the table.

Senate amendment 2 to Assembly amendment 1 to **Senate Bill 374** offered by Senators Moore and Adelman.

The question was: Adoption of Senate amendment 2 to Assembly amendment 1?

Senator Rosenzweig moved rejection of Senate amendment 2 to Assembly amendment 1.

The question was: Rejection of Senate amendment 2 to Assembly amendment 1?

The ayes and noes were demanded and the vote was: ayes, 24; noes, 9; absent or not voting, 0; as follows:

Ayes — Senators Breske, Buettner, Chvala, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Lasee, Llean, Lorman, Moen, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Weeden and Zien — 24.

Noes — Senators Adelman, Andrea, Burke, Clausing, George, Jauch, Moore, Risser and Wineke — 9.

Absent or not voting — None.

Rejected.

The question was: Concurrence of Assembly amendment 1?

The ayes and noes were demanded and the vote was: ayes, 27; noes, 6; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Chvala, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Jauch, Lasee, Llean, Lorman, Moen, Panzer, Petak, Plewa, Potter, Risser, Rosenzweig, Rude, Schultz, Weeden and Zien — 27.

Noes — Senators Adelman, Burke, Clausing, George, Moore and Wineke — 6.

Absent or not voting — None.

Concurred in.

#### **Senate Joint Resolution 9**

Relating to eligibility to office of a person convicted of a misdemeanor involving a violation of public trust or of a felony (first consideration).

Read a second time.

Senator Lorman, with unanimous consent, asked that **Assembly Joint Resolution 3** be withdrawn from committee on Senate Organization and taken up.

Senator Adelman objected.

Ordered to a third reading.

Senator Ellis, with unanimous consent, asked that the joint resolution be considered for final action at this time.

#### **Senate Joint Resolution 9**

Read a third time.

Senator Lorman, with unanimous consent, asked that **Senate Joint Resolution 9** be referred to committee on Senate Organization.

#### **Senate Bill 50**

Relating to impersonating a peace officer and providing penalties.

Read a second time.

Ordered to a third reading.

Senator Farrow, with unanimous consent, asked that the bill be considered for final action at this time.

#### **Senate Bill 50**

Read a third time and passed.

#### **Senate Bill 390**

Relating to employment of minors 11 years of age or older in the sale of newspapers.

Read a second time.

Ordered to a third reading.

Senator Farrow, with unanimous consent, asked that the bill be considered for final action at this time.

#### **Senate Bill 390**

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 19; noes, 14; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Burke, Chvala, Clausing, Darling, Drzewiecki, Farrow, Huelsman, Lasee, Llean, Petak, Plewa, Potter, Rude, Schultz, Weeden and Zien — 19.

Noes — Senators Adelman, Cowles, Decker, Ellis, George, Helbach, Jauch, Lorman, Moen, Moore, Panzer, Risser, Rosenzweig and Wineke — 14.

Absent or not voting — None.

Passed.

#### **Senate Bill 396**

Relating to increasing the jurisdictional amount in small claims actions.

Read a second time.

The question was: Adoption of Senate amendment 1?

Senator Llean, with unanimous consent, asked that **Senate Bill 396** be referred to the joint committee on Finance.

Senator Llean, with unanimous consent, asked that **Senate Bill 396** be withdrawn from the joint committee on Finance and taken up.

Read a second time.

The question was: Adoption of Senate amendment 1?

Adopted.

Ordered to a third reading.

Senator Ellis, with unanimous consent, asked that the bill be considered for final action at this time.

#### **Senate Bill 396**

Read a third time.

The ayes and noes were required and the vote was: ayes, 30; noes, 3; absent or not voting, 0; as follows:

Ayes — Senators Andrea, Breske, Buettner, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Ellis, Farrow, Helbach, Huelsman, Jauch, Lasee, Llean, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter,

Risser, Rosenzweig, Rude, Schultz, Weeden, Wineke and Zien — 30.

Noes — Senators Adelman, Burke and George — 3.

Absent or not voting — None.

Passed.

**Senate Bill 534**

Relating to the maximum price of a raffle ticket.

Read a second time.

Senate amendment 1 to **Senate Bill 534** offered by Senator Adelman.

The question was: Adoption of Senate amendment 1?

Senator Wineke moved rejection of Senate amendment 1.

The question was: Rejection of Senate amendment 1?

—————  
CHAIR

1:48 P.M.

Senator Ellis in the Chair.

—————  
CHAIR

1:50 P.M.

The President in the Chair.

—————  
**LEAVE OF ABSENCE**

Senator Risser, with unanimous consent, asked that Senator Helbach be granted a leave of absence until 2:30 P.M..

The question was: Rejection of Senate amendment 1?

The ayes and noes were demanded and the vote was: ayes, 12; noes, 20; absent or not voting, 1; as follows:

Ayes — Senators Andrea, Breske, Buettner, Ellis, Lorman, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz and Wineke — 12.

Noes — Senators Adelman, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Farrow, George, Huelsman, Jauch, Lasee, Leean, Moen, Moore, Panzer, Risser, Weeden and Zien — 20.

Absent or not voting — Senator Helbach — 1.

Rejection refused.

The question was: Adoption of Senate amendment 1?

Senator Wineke moved that Senate amendment 1 be laid on the table.

The question was: Shall Senate amendment 1 be laid on the table?

The ayes and noes were demanded and the vote was: ayes, 12; noes, 20; absent or not voting, 1; as follows:

Ayes — Senators Andrea, Breske, Buettner, Ellis, Lasee, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz and Wineke — 12.

Noes — Senators Adelman, Burke, Chvala, Clausing, Cowles, Darling, Decker, Drzewiecki, Farrow, George, Huelsman, Jauch, Leean, Lorman, Moen, Moore, Panzer, Risser, Weeden and Zien — 20.

Absent or not voting — Senator Helbach — 1.

Refused to table.

The question was: Adoption of Senate amendment 1?

Adopted.

Senator Risser moved that **Senate Bill 534** be indefinitely postponed.

The question was: Shall **Senate Bill 534** be indefinitely postponed?

The ayes and noes were demanded and the vote was: ayes, 11; noes, 21; absent or not voting, 1; as follows:

Ayes — Senators Adelman, Chvala, Cowles, Darling, Drzewiecki, George, Lasee, Leean, Lorman, Risser and Weeden — 11.

Noes — Senators Andrea, Breske, Buettner, Burke, Clausing, Decker, Ellis, Farrow, Huelsman, Jauch, Moen, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Wineke and Zien — 11.

Absent or not voting — Senator Helbach — 1.

Refused indefinite postponement.

Senator Adelman moved that **Senate Bill 534** be referred to the joint committee on Finance.

The question was: Shall **Senate Bill 534** be referred to the joint committee on Finance?

The ayes and noes were demanded and the vote was: ayes, 10; noes, 22; absent or not voting, 1; as follows:

Ayes — Senators Adelman, Burke, Chvala, Cowles, Darling, Drzewiecki, George, Leean, Risser and Weeden — 10.

Noes — Senators Andrea, Breske, Buettner, Clausing, Decker, Ellis, Farrow, Huelsman, Jauch, Lasee, Lorman, Moen, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Wineke and Zien — 22.

Absent or not voting — Senator Helbach — 1.

Refused referral.

Ordered to a third reading.

Senator Ellis, with unanimous consent, asked that the bill be considered for final action at this time.

**Senate Bill 534**

Read a third time.

The ayes and noes were demanded and the vote was: ayes, 21; noes, 11; absent or not voting, 1; as follows:

Ayes — Senators Andrea, Breske, Buettner, Burke, Clausing, Ellis, Farrow, Huelsman, Jauch, Lasee, Lorman, Moore, Panzer, Petak, Plewa, Potter, Rosenzweig, Rude, Schultz, Wineke and Zien — 21.

Noes — Senators Adelman, Chvala, Cowles, Darling, Decker, Drzewiecki, George, Leean, Moen, Risser and Weeden — 11.

Absent or not voting — Senator Helbach — 1.

Passed.

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MOTIONS

Senator Ellis, with unanimous consent, asked that **Senate Bill 462** be withdrawn from committee on Senate Organization and be referred to joint committee on Finance.

Senator Ellis, with unanimous consent, asked that the Senate return to the third order of business.

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INTRODUCTION OF BILLS

Read first time and referred:

**Senate Bill 715**

Relating to the motor vehicle emission inspection and maintenance program, enumerating a project in the authorized state building program, granting rule-making authority and providing a penalty.

By Senators Cowles and Burke.

To committee on Transportation, Agriculture, Local and Rural Affairs.

**Senate Bill 716**

Relating to: court orders that may be entered on the basis of a statement acknowledging paternity; requirements for parents, insurers and employers with respect to health care coverage for a child in actions affecting the family; a system for reporting child support liability and employment changes; allowing a court to require a payer of child support or maintenance to authorize periodic transfers from a deposit account; various changes in actions to determine paternity; information that a court may consider when determining child support payments; orders from other states that constitute assignments for withholding regarding maintenance and child support; requiring the court to use the child support standard used in divorce actions when setting child support to be paid for children in foster care and other substitute care situations; allowing females to be arrested in all civil actions in which males

can be arrested; establishing a child support arrearage by affidavit; authorizing the clerk of court to escrow overpayments of support or maintenance for disbursement in the month when due; adjusting a withholding assignment for child support or maintenance so that withholding frequency corresponds to payroll period; expanding the authority of a family court commissioner in child support actions; guardians ad litem in actions to determine paternity; expressing child support in child support orders; tax intercept certifications; authorizing costs against a county if the child support payment record kept by the clerk of court is substantially incorrect; requesting waivers under the aid to families with dependent children and job opportunities and basic skills programs; limiting aid to families with dependent children for certain additional children; orientation and job search requirements and sanctions under the job opportunities and basic skills program; granting rule-making authority; granting exemptions from rule-making procedures; making appropriations; and providing a penalty.

By Senators Buettner, Petak, Breske, Andrea, Lorman, Rosenzweig, Zien, Weeden, Panzer, Cowles, Schultz, Farrow, Drzewiecki, Ellis, Leean, Rude, Lasee, Huelsman and Darling; cosponsored by Representatives Gard, Krusick, Prosser, Ziegelbauer, Jensen, Seratti, Schneiders, Dobyms, Grothman, Ladwig, Ainsworth, Vander Loop, Albers, Ryba, Beal, Swoboda, Brancel, Hasenohrl, Brandemuehl, Bolle, Coleman, Grobschmidt, Deininger, Duff, Foti, Freese, Goetsch, Green, Hahn, Harsdorf, Johnsrud, Kaufert, Klusman, Kreibich, Krosnicki, Lazich, Lehman, Lorge, Musser, Nass, Ott, Otte, Ourada, Owens, Porter, Silbaugh, Skindrud, Underheim, Urban, Vergeront, Vrakas, Walker, Ward, Welch and Zukowski.

To committee on Health, Human Services and Aging.

**Senate Bill 717**

Relating to the exemption of reindeer from regulation by the department of natural resources and the duties and authority of the department of agriculture, trade and consumer protection concerning domestic animals.

By Senators Schultz and Lasee.

To committee on Transportation, Agriculture, Local and Rural Affairs.

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COMMITTEE REPORTS

REPORT OF JOINT SURVEY COMMITTEE ON  
TAX EXEMPTIONS

Appendix to **Senate Bill 627**

Public Policy Involved

This bill is good public policy

Senator Schultz                      Representative Baumgart  
Co-chair                              Co-chair

Read and referred to committee on State Government Operations and Corrections

MOTIONS

Senator Moen, with unanimous consent, asked that he be listed as a co-sponsor of **Assembly Bill 1001**.

Senator Moen, with unanimous consent, asked that he be listed as a co-sponsor of **Assembly Bill 1071**.

Senator Buettner, with unanimous consent, asked that **Senate Bill 696** be withdrawn from committee on Health, Human Services and Aging and be referred to committee on Judiciary and Insurance.

Senator Burke, with unanimous consent, asked that his name be withdrawn as co-sponsor of **Assembly Bill 1020**.

Senator Chvala, with unanimous consent, asked that the veto portion of **Senate Bill 548** be taken up.

Senator Ellis objected.

Senator Chvala moved that the rules be suspended and that the vetoed portion of **Senate Bill 548** be taken up.

The question was: Shall the rules be suspended and that the vetoed portion of **Senate Bill 548** be taken up?

The ayes and noes were required and the vote was: ayes, 16; noes, 17; absent or not voting, 0; as follows:

Ayes — Senators Adelman, Andrea, Breske, Burke, Chvala, Clausing, Decker, George, Helbach, Jauch, Moen, Moore, Plewa, Potter, Risser and Wineke — 16.

Noes — Senators Buettner, Cowles, Darling, Drzewiecki, Ellis, Farrow, Huelsman, Lasee, Loran, Lorman, Panzer, Petak, Rosenzweig, Rude, Schultz, Weeden and Zien — 17.

Absent or not voting — None.

Refused to suspend the rules.

Senator Moore, with unanimous consent, asked that she be listed as a co-sponsor of **Assembly Bill 558**.

Senator Wineke, with unanimous consent, asked that when the Senate adjourn today it do so in honor of Heather Hanson, who is leaving the Senate to get married and to work for the Minnesota legislature.

Senator Petak, with unanimous consent, asked that when the Senate adjourn today it do so in honor of Sam Veit, J.C. Dawkins and Brent Moss all from Racine and all on the UW Rose Bowl Championship Team.

Senator Farrow, with unanimous consent, asked that all action be ordered immediately messaged.

Senator Farrow, with unanimous consent, asked that the Senate adjourn until 10:00 A.M. Thursday, February 10.

2:41 P.M.

AMENDMENTS OFFERED

Senate amendment 2 to **Assembly Bill 819** offered by Senator Darling.

Senate substitute amendment 1 to **Senate Bill 604** offered by Senator Rosenzweig.

Senate amendment 1 to **Senate Bill 622** offered by Senator Lorman.

Senate amendment 1 to **Senate Bill 570** offered by Senator Darling.